

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

RALPH BRANDON

Claim No. CU -1853

Decision No. CU-1590

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on April 10, 1968; no oral hearing requested.

Hearing on the record held on October 20, 1971.

FINAL DECISION

Under date of April 10, 1968, the Commission issued its Proposed Decision denying this claim for lack of proof. Subsequently claimant submitted evidence in support of portions of his claim for stock interests in certain Cuban corporations.

Upon consideration of the new evidence in light of the entire record, the Commission amends the decision in this matter as follows:

The Commission now finds that claimant owned stock interests in the following Cuban corporations:

949 shares of common stock and 224 shares of preferred stock in Colon Independent Trading Corporation (Colon);

169 shares of common stock and 4,340 shares of preferred stock in Distribuidora de Fibra de Vidrio, S.A. (Fibra); and

28,079 shares of common stock in Cuban Independent Trading Corporation (Cuban).

In our decisions entitled Claim of Executors of the Estate of Montgomery Clift, Deceased (Claim No. CU-1385), Claim of Helen Brandon, et al. (Claim No. CU-2175), and Claim of Benjamin Kovner (Claim No. CU-1015), which we incorporate herein by reference, we held that Colon, Fibra and Cuban were

intervened or otherwise taken by the Government of Cuba on September 1, 1960; and that this type of claim is allowable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the values of Colon common stock as \$4.0418 per share and preferred stock as \$118.00 per share; the values of Fibra common stock as \$5.4913 per share and preferred stock as \$1.00 per share; and the value of Cuban common stock as \$0.600476 per share.

On the basis of the evidence of record, the Commission finds that claimant, a national of the United States since birth, comes within the terms of the Clift, Brandon, and Kovner decisions; and that he suffered a loss in the aggregate amount of \$52,396.47 for the above-described stock interests within the meaning of Title V of the Act.

Although it appears claimant held stock interests in Financiera Ideal, S.A., and in Inversiones Guarina, S.A., the record in this and related cases fails to provide a basis for evaluating these stock interests. Accordingly, the denial of these items of claim is affirmed.

Claimant's losses on September 1, 1960 are summarized as follows:

<u>Item of Property</u>	<u>Amount</u>
Colon common stock	\$ 3,835.67
Colon preferred stock	26,432.00
Fibra common stock	928.03
Fibra preferred stock	4,340.00
Cuban common stock	<u>16,860.77</u>
Total	<u>\$52,396.47</u>

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

The following Certification of Loss will be entered and in all other respects the Proposed Decision, as amended herein, is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that RALPH BRANDON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-Two Thousand Three Hundred Ninety-Six Dollars and Forty-Seven Cents (\$52,396.47) with interest at 6% per annum from September 1, 1960 to the date of settlement.

The Commission has attempted to communicate with claimant at his last known address of record, but the correspondence was returned without any new forwarding address, and further attempts to obtain his current address have been in vain.

The Regulations of the Commission provide:

Service by first class mail shall be regarded as complete, upon deposit in the United States mail properly stamped and addressed. [FCSC Reg., 45 C.F.R. §501.3(d) (Supp. 1967).]


Without previous hearing, the Commission may issue a proposed decision in determination of a claim. [FCSC Reg., 45 C.F.R. §531.5(b) (Supp. 1967).]

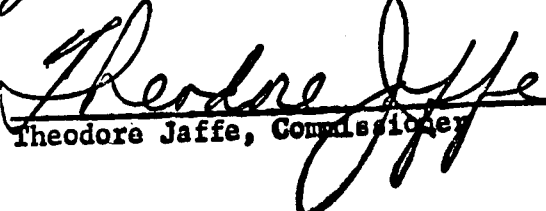
Such proposed decision shall be delivered to the claimant or his attorney of record in person or by mail. Delivery by mail shall be deemed completed 5 days after the mailing of such proposed decision addressed to the last known address of the claimant or his attorney of record. One copy of the proposed decision shall be available for public inspection at the office of the Commission. Notice of proposed decision shall be posted on the bulletin board at the office of the Commission on the day of its issuance and for 20 days thereafter. [FCSC Reg., 45 C.F.R. §531.5(c) (1970).]

A copy of this Final Decision shall be mailed to claimant's last known address of record, and this shall constitute service of the Final Decision in accordance with Sections 501 and 531 of the Commission's Regulations.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

OCT 20 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$315,072.50, was presented by RALPH BRANDON, and is based upon the asserted loss of stock interests in Cuban corporations. Claimant stated that he derived United States nationality through his parents.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)]⁷, the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Other than claimant's own statements as set forth in the claim filed on April 21, 1967, no evidence has been submitted to establish this claim. By Commission letter of June 29, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. However, no evidence or information was submitted in response to the Commission's suggestions.

On September 14, 1967, claimant was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted; neither has claimant corresponded with the Commission.

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The Commission finds that claimant has not met the burden of proof in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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